

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Larry E. Ealy,

Plaintiff, : Case No. 3:09-cv-98

- vs - : Chief Judge Susan J. Dlott
Dr. Jerome Schulte, : Magistrate Judge Michael R. Merz

Defendants. :

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #9), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that the appeal to the Sixth Circuit Court of Appeals is frivolous and the Motion to Proceed on Appeal *in forma pauperis* is DENIED.

June 22 2009.



Chief Judge Susan J. Dlott
United States District Court